

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JLS*  
Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** November 7, 2016

**SUBJECT: ZC 14-11 B: Preliminary and Pre-hearing Report; Text Amendment to the Zoning Regulations: Subtitle B, Definitions, Subtitle D, Zones R-3, R-13, R-17 and R-20, Subtitle E, RF zones and Subtitle U, Uses.**

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Office of Planning Recommendation

The Office of Planning recommends the Zoning Commission take proposed action to approve the following text amendments.

Input from the Zoning Administrator's Office

OP met with the staff of the office of the Zoning Administrator (ZA) and went through issues that they have seen with the administration of the recently adopted text from case 14-11 regarding conversions to apartment houses in the RF (R-4) zones. The OP recommendations include input and recommendations from the ZA's office to address clarity in administration of two provisions in the RF zone in particular – rooftop architectural features and solar impact. New language that was not included in the public hearing notice is in underlined [blue text](#).

Solar Impact

The ZA's office had additional discussions with a Green Building Code inspector at the Department of Consumer and Regulatory Affairs on the solar impact text. The inspector suggested the changes to make the standard more workable for permit review; these changes are included in numbers 6, 8 and 9 of this report.

Correct Numbering

The numbering in this report may appear different from the public hearing notice because of the timing of the publications of previous technical corrections. OP will confirm the numbering with the Office of Zoning prior to publication of any proposed action.

Subtitle **E §206** was not specifically referenced in this case because it was part of technical correction ZC case 08-06 D and action had not been taken on that case at the time this case was set down. However, it is clearly relevant and necessary to enact the advertised purposes of the text amendments of this case and OP recommends it be included as proposed action, as amended in number 6 of this report.

Summary of Text Amendments

The recommended text amendments address concerns about excessively disproportionate rear additions to adjoining row buildings. The text reflects the ten foot (10 ft.) standard approved by the Zoning Commission on March 28, 2016 as a minor modification to the special exception criteria for conversion of a rowhouse to more than two units in case 14-11. The proposed text is limited to attached and semi-detached buildings because a detached building including any rear addition would be subject to side yard requirements.

In this case, the rear addition language establishes a ten foot limit as a matter of right and would allow for more than ten feet as a special exception. The new language would be applicable in combination with the other existing development standards such as lot occupancy and rear yards, to regulate the overall

development of a lot. The ten foot rear addition limit could not be used to encroach into a required rear yard or to exceed lot occupancy.

**I. Rear Additions to Attached or Semi-detached Buildings in the rowhouse (R-3/13/17/20) and flat (RF) zones;**

- Limit matter of right rear additions to attached or semi-detached buildings in the rowhouse and flat zones (R-3 and R-4 in the 1958 regulations and the R-3, RF-1, RF-2 and RF-3 zones in the 2016 regulations) to no more than ten feet (10 ft.) beyond the rear wall of the principal building on an adjoining property;
- Create a special exception provision for rear additions to extend more than ten feet beyond the rear wall of the principal building on an adjoining property; and
- Amend the definition of a boarding house to identify it as a residential structure and therefore conversion to an apartment house would be subject to special exception under Subtitle U § 320.2.

Add clarifying language relative to protections of solar energy systems in [E-206.1\(c\)](#)

1. Add a new Subtitle D §§ 306.3 and 306.4, to read as follows:

**306.3 Notwithstanding §§ 306.1 and 306.2 a rear wall of an attached or semi-detached building shall not be constructed to extend further than ten feet (10 ft.) beyond the furthest rear wall of any principal residential building on an adjoining property.**

**306.4 A rear wall of an attached or semi-detached building may be constructed to extend more than ten feet (10 ft.) beyond the furthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through (d) and §§ 5201.4 through 5201.6..**

2. Add a new Subtitle D §§ 706.3 and 706.4, to read as follows:

**706.3 Notwithstanding §§ 706.1 and 706.2, a rear wall of an attached or semidetached building shall not be constructed to extend more than ten feet (10 ft.) beyond the furthest rear wall of any adjoining principal residential building on an adjoining property.**

**706.4 A rear wall of an attached or semi-detached building may extend more than ten feet (10 ft.) beyond the furthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3 (a) through (d) and §§ 5201.4 through 5201.6.**

3. Add new Subtitle D §§ 1006.2 and 1006.3 to read as follows:

**1006.2 Notwithstanding § 1006.1, a rear wall of an attached or semi-detached building shall not be constructed to extend more than ten feet (10 ft.) beyond the furthest**

**rear wall of any adjoining principal residential building on an adjoining property.**

**1006.3 A rear wall of an attached or semi-detached building may extend more than ten feet (10 ft.) beyond the furthest rear wall of any adjoining principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through (d) and §§ 5201.4 through 5201.6.**

4. Add new Subtitle D §§ 1206.3 and 1206.4 to read as follows

**1206.3 Notwithstanding § 1206.2 of this section, a rear wall of an attached or semidetached building shall not be constructed to extend more than ten feet (10 ft.) beyond the furthest rear wall of any principal residential building on an adjoining property.**

**1206.4 In the R-20 zone a rear wall of an attached or semi-detached building may extend more than ten feet (10 ft.) beyond the furthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y, Chapter 9 and as evaluated against the criteria of Subtitle D §§ 5201.3(a) through (d) and §§ 5201.4 through 5201.6.**

5. Add new Subtitle E §§ 205.4 and 205.5 to read as follows:

**205.4 Notwithstanding §§ 205.1 through 205.3, a rear wall of an attached or semidetached building shall not be constructed to extend more than ten feet (10 ft.) beyond the furthest rear wall of any adjoining principal residential building on an adjoining property.**

**205.5 A rear addition may extend more than ten feet (10 ft.) beyond the furthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y, Chapter 9 and as evaluated against the criteria of Subtitle E §§ 5201.3 through 5201.6.**

6. Amend Subtitle E § 206 Rear Addition to read:

## **206 ROOF TOP OR UPPER FLOOR ADDITIONS**

- 206.1 In an RF zone district, the following provisions shall apply:

- (a) **Except as provided in Subtitle E § 206.1 (d)** A roof top architectural element original to the building such as a turret, tower or dormers, shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;
- (b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code; ~~and~~

- (c) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system on an adjacent property. **For the purposes of this provision the following phrases shall have the associated meanings:**

**(1) ‘Significantly interfere’ shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five per cent (5%) on any one day an annual basis, as evidenced through a shadow, shade, or other reputable demonstrated by a comparative solar shading study acceptable to the Zoning Administrator,; and . For the purposes of this provision**

**(2) ‘An existing solar energy system’ shall mean a system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or that an application for zoning relief or approval is officially accepted as complete by the Office of Zoning for consideration by the Board of Zoning Adjustment of Zoning Commission, either (i) legally permitted, installed and operating operative or (ii) authorized by an issued permit a system for which a permit has been issued. provided that If the permitted solar energy system is not operative within one (1) year operative within six (6) months of the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system, a system shall not be considered existing.**

- (d) **For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure.**

7. Amend Subtitle B, § 100.2, the definition of Boarding House as follows:

**Boarding House:** A building or part thereof where, for compensation, lodging and meals are provided to three (3) or more guests on a monthly or longer basis; **a boarding house shall be considered a residential structure.**

II. Amend Subtitle U § 301.2 to provide clarification of Conversions of Non-residential Buildings.

- Change “a residential building” to “**an apartment building**”. This change will clarify that the section applies when a non-residential building is converted to an apartment house and not when a change in use is to a matter-of-right single household dwelling or flat;
- Delete the phrase “existing prior to May 12, 1958”. This change will allow for non-residential buildings such as churches, schools and fire stations, that were built after

1958 to be converted to an apartment house subject to the conditions of Subtitle U §§ 301.2 and 320.3; and

- Clarify that the existing non-residential building referenced in section 330.7 (a) is the building to be converted.
- Add clarifying language relative to protections of solar energy systems in U-301.2(g), and U-320.2(g).

8. Amend Subtitle U § 301.2 (Matter of Right Uses in RF zone) as follows:

301.2 Conversion of an existing non-residential building or structure, ~~existing prior to May 12, 1958, to a residential building~~ **an apartment house** shall be permitted as a matter of right in the R-4 Zone District subject to the following conditions:

- (a) **The building or structure to be converted is in existence** ~~There is an existing non-residential building~~ on the property at the time of filing an application for a building permit;
- (b)...
- (e) **Except as provided in U § 301.2 (h), a** A roof top architectural element original to the structure such as **cornices, porch roofs,** a turret, tower, or dormers shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size;
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any municipal code** on an adjacent property ~~required by any municipal code.~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition.**
- (g) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system **of at least 2kW** on an adjacent property **unless agreed to by the owner of the adjacent solar energy system.** **For the purposes of this provision the following terms shall have the associated meaning:**
  - (1) **'significantly interfere' shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five per cent (5%) on any one day an annual basis,** as evidenced through a shadow, shade, or other reputable **demonstrated by a comparative solar shading** study acceptable to the Zoning Administrator,; and **For the purposes of this provision**
  - (2) **'an existing solar energy system' shall mean a system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or that an application for zoning relief or approval is officially accepted as complete by the Office of Zoning for consideration by the Board of Zoning Adjustment of Zoning Commission, either (i) legally permitted, installed and operating**

~~operative or (ii) authorized by an issued permit a system for which a permit has been issued. provided that If the permitted solar energy system is not operative within one (1) year operative within six (6) months of the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system, a system shall not be considered existing.~~

(h) For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure.

9. Amend Subtitle U § 320.2, paragraphs (f) through (g) as follows:

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following provisions:

...

(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any municipal code on an adjacent property ~~required by any municipal code.~~ A chimney or other external vent must be existing and operative at the date of the building permit application for the addition.

(g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing ~~or permitted~~ solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this provision the following terms shall have the associated meaning:

(1) 'significantly interfere' shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five per cent (5%) on any one day an annual basis, as evidenced through a shadow, shade, or other reputable demonstrated by a comparative solar shading study acceptable to the Zoning Administrator,; and For the purposes of this provision

(2) 'an existing solar energy system' shall mean a system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or that an application for zoning relief or approval is officially accepted as complete by the Office of Zoning for consideration by the Board of Zoning Adjustment of Zoning Commission, either (i) legally permitted, installed and operating operative or (ii) authorized by an issued permit a system for which a

~~permit has been issued. provided that If the permitted solar energy system is not operative within one (1) year operative within six (6) months of the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system, a system shall not be considered existing.~~

- (h) Except as provided in U § 320.2 (i), a A roof top architectural element original to the structure such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size.
- (i) For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure.

10. Amend Subtitle U § 320.3 (Special Exception Uses in the RF zones) to delete the phrase “existing prior to May 12, 1958” as follows:

320.3 Conversion of a non-residential building or other structure ~~existing prior to May 12, 1958,~~ to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions...